

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

ALBERTO VILAR and GARY TANAKA,

Defendants.

USDS SDNY
DOCUMENT
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DATE FILED: 7-15-14

No. 05 Cr. 621 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

IT IS HEREBY ORDERED THAT the motion pending at docket number 672 is denied for the reasons set forth on the record at the April 24, 2014 sentencing. In addition, to the extent the motion was intended as a motion pursuant to 28 U.S.C. § 2255, it was premature. *Wall v. United States*, 619 F.3d 152, 154 (2d Cir. 2010) (“[H]abeas petitions filed before the petitioner has exhausted his direct appeal are generally considered premature.”); *see also Zuniga v. Sposato*, No. 11-cv-1045 (JFB), 2011 WL 1336396, at *2 (E.D.N.Y. Apr. 7, 2011) (noting that § 2255 motions may not be brought before sentencing). If, after their appeals, Defendants intend to file a § 2255 motion, they must commence a separate action. The Clerk of the Court is respectfully directed to terminate the motion pending at docket number 672, as well as all other open motions in this case submitted before April 25, 2014.

SO ORDERED.

Dated: July 15, 2014
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE